

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Second Periodic Review of the	)	MB Docket No. 03-15
Commission's Rules and Policies	)	
Affecting the Conversion to	)	RM 9832
Digital Television	)	

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**OPPOSITION OF MOTOROLA, INC.**

Motorola, Inc. ("Motorola") hereby submits this opposition in response to several petitions seeking reconsideration and/or clarification of the Commission's recent Report and Order in the above-captioned proceeding.<sup>1</sup> As further described below, Motorola urges the Commission, in reviewing these Petitions for Reconsideration, to ensure that the digital television ("DTV") transition is not further delayed.

**I. INTRODUCTION AND SUMMARY**

In the recent Report and Order in this proceeding, the Commission took appropriate steps towards facilitating a timely transition to digital television by establishing, among other things, firm deadlines by which broadcasters must replicate and maximize their analog signals or risk losing interference protection in those areas.<sup>2</sup>

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<sup>1</sup> *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, Report and Order*, 19 FCC Rcd 18279 (2004) ("Report and Order").

<sup>2</sup> All DTV licensees affiliated with the top-four networks in markets 1-100 must be on the air replicating their April 1997 NTSC Grade B service area by July 1, 2005 or lose interference protection to the unreplicated portion of this service area outside the noise-limited signal contour. Similarly, all other DTV licensees must be on the air replicating their April 1997 NTSC Grade B service area by July 1, 2006 or lose interference protection to the unreplicated portion of this service area outside the noise-limited signal contour. *Id.* at ¶ 78.

Nexstar Broadcasting, Inc. (“Nexstar”) filed a Petition for Reconsideration asking the Commission to extend the replication/maximization deadlines set forth in the Report and Order.<sup>3</sup> The Commission’s establishment of the 2005 and 2006 replication and maximization deadlines was the result of a balancing of interests: facilitating a timely transition to DTV and ensuring small broadcasters are not overly burdened in making this transition. In its petition, Nexstar fails to raise any new evidence indicating that the Commission’s balancing of relevant factors was inappropriate. Accordingly, Nexstar’s request should be rejected, just as the National Association of Broadcasters and MSTV’s similar request was rejected in the Report and Order.<sup>4</sup>

Paxson Communications Corporation (“Paxson”) also filed a Petition for Reconsideration claiming that the Commission defaulted on its statutory obligation to preserve over-the-air analog service by failing to address the immediate prospect of displacement of broadcasters currently operating in the upper 700 MHz band for public safety.<sup>5</sup> Paxson’s petition should be dismissed because the concerns are premature as they are based on pending legislative efforts and not law. Motorola does, however, expect that the FCC is actively monitoring this legislative activity in order to respond aggressively if and when Congress modifies the terms of the DTV transition so that public safety access to the 700 MHz band is effectuated as soon as possible.

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<sup>3</sup> Nexstar Broadcasting, Inc., Petition for Reconsideration, MB Docket No. 03-15 (filed Nov. 3, 2004) (“Nexstar Petition”).

<sup>4</sup> See MSTV/NAB Comments at 8.

<sup>5</sup> Paxson Communications Corporation, Petition for Reconsideration, MB Docket No. 03-15 (filed Nov. 2, 2004) (“Paxson Petition”) at 1.

## **II. THE REPLICATION/MAXIMIZATION DEADLINES SHOULD NOT BE EXTENDED.**

Nexstar urges the Commission to extend its replication/maximization deadlines until the end of the digital transition.<sup>6</sup> Such an action, however, would be deleterious to the digital transition.

Strict adherence to the replication/maximization deadlines is essential to a timely DTV transition. The full benefits of DTV cannot be realized without full coverage. To date, however, approximately 40 percent of stations currently providing DTV are reaching less than 70 percent of their analog population with this digital signal.<sup>7</sup> This lack of coverage is preventing customers from investing in digital televisions because they will not necessarily be able to receive the same programming in digital that they currently receive in analog. As the Commission noted in its Report and Order, the maximization/replication deadlines will ensure that consumers in all areas receive the full benefit of digital television.<sup>8</sup> In contrast, the relaxation of the established replication/maximization deadlines will further delay DTV deployment to consumers.

Nexstar has raised no new arguments that warrant reconsideration of the replication/maximization deadlines. In this Report and Order, the Commission fully considered broadcasters' arguments of economic hardship. Indeed, the Commission noted that it attempted to speed the DTV transition "without imposing undue cost and delay on broadcasters."<sup>9</sup>

Nexstar's Petition, however, consists of a litany of concerns about the costs that will be imposed

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<sup>6</sup> Nexstar Petition at 5.

<sup>7</sup> MSTV Power and Coverage Study at 16.

<sup>8</sup> *Report and Order* at ¶ 79.

<sup>9</sup> *Report and Order* at ¶ 78.

on broadcasters during the transition.<sup>10</sup> These same arguments were fully addressed by the Commission in the Report and Order.<sup>11</sup>

The established replication/maximization deadlines are the result of the Commission balancing all of these concerns with the policy of speeding the DTV transition. Nexstar can always seek a waiver for extreme specific circumstances, but there is no need to change the fundamental policy.<sup>12</sup>

### **III. THE FURTHER CONSIDERATION OF THE TREATMENT OF DISPLACED 700 MHz LICENSEES MUST NOT DELAY THEIR TRANSITION TO ALTERNATIVE SPECTRUM.**

In its Petition for Reconsideration, Paxson indicates that the Commission must provide for the continued operation of analog stations throughout the transition.<sup>13</sup> Moreover, Paxson asserts that the Commission defaulted on this statutory obligation by not addressing the possibility that Congress may require the 700 MHz broadcast licensees to be displaced prior to the end of the transition.<sup>14</sup> Accordingly, Paxson states that the Commission must provide these

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<sup>10</sup> Nexstar Petition at 4.

<sup>11</sup> *See Report and Order* at ¶ 78.

<sup>12</sup> Nexstar's claim that the waiver process is an "inadequate solution" to the problem that stations may not be able to meet the replication/maximization deadlines is unjustified. Nexstar Petition at 4. In support of this claim, Nexstar asserts that broadcasters will not know by what date full-power operations must be initiated and by when they must incur the required expenditures if a waiver process is adopted. *Id.* These reasons, however, are precisely why the Commission adopted the set replication/maximization deadlines in the Report and Order. Broadcasters should be making the required expenditures now and should be operating at full power as soon as possible. Accordingly, a waiver of these deadlines should be granted only when broadcasters have done everything in their power to upgrade their facilities and enable full power operation but are still unable to replicate/maximize their service areas by the deadline.

<sup>13</sup> Paxson Petition at 4-6.

<sup>14</sup> *Id.* at 6-9.

licensees with alternative spectrum or otherwise mitigate the possible burden of this early displacement.<sup>15</sup>

Because it is based on pending legislation, Paxson's Petition is premature and should not be a basis to delay implementation of policies adopted in the Report and Order that serve to expedite the DTV transition under the existing law. While Motorola strongly supports providing public safety access to the 700 MHz band by as early as 2007, it is not appropriate to develop new rules and policies based on legislative proposals. If and when Congress does amend the terms of the DTV transition and 700 MHz broadcast licensees are displaced on an accelerated schedule, then the FCC must be ready to act as required under any new law.

#### **IV. CONCLUSION**

For the foregoing reasons, Nexstar's Petition for Reconsideration should be denied. Similarly, the Commission should dismiss Paxson's Petition for Reconsideration. These actions will ensure that the DTV transition is not further delayed.

Respectfully submitted,

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<sup>15</sup> *Id.* at 20-24.

## **CERTIFICATE OF SERVICE**

On January 21, 2005, in addition to being electronically filed into MB Docket No. 03-15 and RM 9832 via ECFS, the foregoing Opposition of Motorola, Inc. was delivered by First Class mail to Mr. Howard M. Liberman and Mr. John R. Feore, Jr.

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